

1 H.766

2 Introduced by Committee on General, Housing and Military Affairs

3 Date:

4 Subject: Internal security and public safety; national guard

5 Statement of purpose: This bill proposes to give the adjutant general the
6 authority to create medals and awards to recognize meritorious service. The
7 bill allows a court to stay a civil or administrative proceeding during the time a
8 Vermont National Guard member is on state active duty. The bill clarifies that
9 a guard member is allowed to take unpaid leave from work during a period of
10 state active duty. The bill also allows members of the guard to continue their
11 civilian health insurance when called to state active duty, and clarifies the law
12 regarding the receipt of educational assistance.

13 An act relating to the national guard

14 It is hereby enacted by the General Assembly of the State of Vermont:

15 Sec. 1. 20 V.S.A. § 946 is added to read:

16 § 946. NONJUDICIAL PUNISHMENT

17 Any commander of the national guard, not in the service of the United
18 States, may, in addition to or in lieu of admonition or reprimand, impose
19 nonjudicial punishment in like manner and to the extent prescribed by
20 Article 15 of the Uniform Code of Military Justice, Manual for Courts-Martial,

1 United States, as shall be currently in use by the armed forces of the United
2 States, except that there shall be no right to demand trial by courts-martial
3 when the commander notifies the accused prior to accepting the nonjudicial
4 punishment that the maximum punishment to be considered in the event that
5 the accused is found guilty will be the loss of one rank, restriction, extra duty,
6 oral admonition or reprimand, or written reprimand.

7 Sec. 2. 20 V.S.A. § 369 is added to read:

8 § 369. AWARDS

9 Upon the approval of the governor, the adjutant general may, from time to
10 time, create and design such awards and medals to recognize meritorious
11 service or outstanding achievement for members of the Vermont National
12 Guard. The adjutant general will cause to be published a roster of these awards
13 and medals, the criteria and process for awarding them, and a description or
14 specification of the award and medals. All awards and medals will be
15 presented in the name of the state of Vermont and be awarded to a member or
16 retired member of the Vermont National Guard or if the member is deceased to
17 the member's spouse, child, parent, sibling, or grandchild.

18 Sec. 3. 20 V.S.A. § 603 is amended to read:

19 § 603. ARMS AND EQUIPMENT; PAY AND RATIONS

20 When the national guard, or part thereof, is ordered out under the provisions
21 of section 366, 601, or 602 of this title, the state shall furnish arms and

1 equipment necessary for each officer, warrant officer, and enlisted person; and
2 they shall be entitled to ~~pay and rations~~ pay, subsistence, and quarters
3 allowance equivalent to that paid to members of the armed forces of the United
4 States for officers, warrant officers, and enlisted persons of corresponding
5 grade and time in service as designated in the U.S. pay tables.

6 Sec. 4. 20 V.S.A. § 608 is added to read:

7 § 608. CIVILIAN LEAVE OPTION

8 If any member of the Vermont national guard is ordered to state active duty
9 by the governor, the service member shall have the right to take leave without
10 pay from his or her civilian employment. No member of the national guard
11 shall be forced to use or exhaust his or her vacation or other accrued leave
12 from his or her civilian employment for a period of active service.

13 Sec. 5. 20 V.S.A. § 609 is added to read:

14 § 609. STAY OF LEGAL PROCEEDINGS BECAUSE OF
15 SERVICE IN NATIONAL GUARD

16 (a)(1) If a service member of the Vermont National Guard who is ordered
17 to state active duty by the governor is a party to a civil or administrative
18 proceeding in any Vermont court, the proceeding:

19 (A) may be stayed by the court on its own motion; or

20 (B) shall be stayed by application of the member or person acting on
21 behalf of the member, unless the court finds that the proceeding would not be

1 materially affected by reason of the member's absence, or that the member can
2 participate by telephone or other electronic means.

3 (2) A motion for a stay under this subsection may be filed, or the court
4 may issue such a stay, at any time during the period of active service. Any
5 stay issued shall not remain in effect for more than 30 days after the
6 completion of state active duty.

7 (b) An application for a stay pursuant to subdivision (a)(1)(B) of this
8 section shall include:

9 (1) a letter or other communication setting forth facts stating the manner
10 in which the member's duty requirements materially affect the member's
11 ability to appear and stating a date when the member will be available to
12 appear; and

13 (2) a letter or other communication from the member's commanding
14 officer stating that the member's current military duty prevents the member
15 from appearing and that military leave is not authorized for the member at the
16 time of the letter.

17 (c) This section shall not apply to:

18 (1) proceedings involving relief from abuse orders under 15 V.S.A.
19 chapter 21, subchapter 1;

20 (2) proceedings involving orders against stalking or sexual assault under
21 12 V.S.A. chapter 178;

1 training periods, military flight periods and other equivalent duty and while on
2 state duty on order of the governor or the governor's representative.

3 (4) "Armed forces of the United States" means the Army, Navy,
4 Air Force, Marine Corps, and Coast Guard.

5 (5) "Child" means a natural or adoptive child of a member of the
6 Vermont National Guard or armed forces, and includes a stepchild.

7 Sec. 8. 16 V.S.A. § 2856 is amended to read:

8 § 2856. EDUCATIONAL ASSISTANCE

9 (a) An active member of the Vermont ~~army national guard or the air~~
10 ~~national guard~~ National Guard may be eligible for an interest-free loan in an
11 academic year for financial assistance to pay for tuition and fees for courses
12 taken at a Vermont college, university, regional technical center, or other
13 programs approved pursuant to policies adopted in accordance with subsection
14 (f) of this section. ~~Academic year awards may be up to the in-state tuition rate~~
15 ~~at the University of Vermont for that year.~~

16 (b) To be eligible for an educational loan under this section, a person shall:

17 (1) be an active member in good standing of a ~~federally recognized~~
18 federally recognized unit of the Vermont ~~army national guard or air national~~
19 ~~guard~~ National Guard;

20 (2) have successfully completed basic training or commissioning; and

21 (3) ~~not hold a baccalaureate degree or higher; and~~

1 ~~(4)~~ be enrolled in a program that leads to a postsecondary degree,
2 diploma or be studying for relevant continuing education purposes.

3 (c) A loan made under this section shall be interest free and may be
4 partially or completely cancelled and forgiven for a person who:

5 (1) submits certification that the person has successfully completed the
6 course; and

7 (2) submits certification that the person has completed two years of
8 national guard service for each full academic year award. Service
9 requirements for less than a full academic year award shall be proportionate to
10 the amount of the award. The board shall determine the amount of loan to be
11 cancelled for each completed year of service. The amount cancelled for each
12 year of service shall not exceed 50 percent of the loan.

13 (d) The adjutant general shall provide ~~a certificate~~ documentation of
14 eligibility ~~to each person who has been found to be eligible~~ for educational
15 assistance under this section for each academic period. ~~The certificate shall be~~
16 ~~valid for one academic year.~~

17 ~~(e) A person shall not be eligible for educational assistance under this~~
18 ~~section for any courses taken after he or she has been awarded a baccalaureate~~
19 ~~degree or is no longer an active member in good standing of the Vermont army~~
20 ~~national guard or the air national guard~~ The loan of a person who loses
21 eligibility under this section while enrolled in a course shall go into repayment

1 pursuant to the terms of the loan, and the person shall be ineligible for further
2 assistance under this section until the loan is repaid in full.

3 (f) The board, in consultation with the office of the adjutant general, shall
4 adopt ~~rules~~ policies, procedures, and guidelines necessary to implement the
5 provisions of this section, which shall include application requirements, annual
6 loan requirements, loan forgiveness requirements, and annual loan amounts
7 based on available funds. ~~Rules~~ The policies, procedures, and guidelines shall
8 include definitions of “successful completion of a course,” “relevant
9 continuing education courses” and what constitutes an “academic year.” ~~Rules~~
10 adopted by the Vermont ~~state colleges~~ State Colleges under section 2183 of
11 this title, prior to its repeal, shall remain valid under this section and shall be
12 administered by the corporation.

13 (g) [Repealed.]

14 (h) The availability of loans made under this subchapter is subject to funds
15 appropriated to the Vermont ~~army or air national guard~~ National Guard for that
16 purpose.